

§ 257.108

(c) The mortgagor has not been convicted of fraud under federal or state law during the 10-year period ending upon insurance of the H4H program mortgage;

(d) The mortgagor does not have a net worth, as of the date the mortgagor first applies for the H4H program mortgage, which exceeds \$1 million.

(e) The mortgagor meets such other requirements as HUD may adopt.

§ 257.108 Eligible properties.

(a) A mortgage may be insured under the H4H program only if the property that is to be the security for the mortgage is a one-to-four unit residence.

(b) The following property types are eligible to secure a mortgage insured under the H4H program:

(1) Detached and semi-detached dwellings;

(2) A condominium unit;

(3) A cooperative unit; or

(4) A manufactured home that is permanently affixed to realty and is treated as realty under applicable state law, except state taxation law.

§ 257.110 Underwriting.

A mortgage may be insured under the H4H program only if the following conditions are met:

(a) *Loan-to-value and income thresholds.* The loan-to-value (LTV), payment-to-income, and debt-to-income ratios of the H4H program mortgage do not exceed the thresholds set forth in either paragraph (a)(1) or (a)(2) of this section.

(1) *Program mortgage with LTV ratio of 90 percent or less.* (i) The initial principal balance of the H4H program mortgage (excluding the amount of the up-front premium) as a percentage of the current appraised value of the property does not exceed 90 percent;

(ii) The total monthly mortgage payment of the mortgagor under the H4H program mortgage does not exceed 38 percent of the mortgagor's monthly gross income; and

(iii) The sum of the total monthly mortgage payment under the H4H program mortgage and all monthly recurring expenses of the mortgagor do not exceed 43 percent of the mortgagor's monthly gross income.

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(2) *Program mortgage with LTV of greater than 90 percent.* (i) The initial principal balance of the H4H program mortgage (excluding the amount of the up-front premium) as a percentage of the current appraised value of the property exceeds 90 percent (up to any limit established by HUD through Mortgagee Letter);

(ii) The total monthly mortgage payment of the mortgagor under the H4H program mortgage does not exceed 31 percent of the mortgagor's monthly gross income; and

(iii) The sum of the total monthly mortgage payment under the H4H program mortgage and all monthly recurring expenses of the mortgagor do not exceed 43 percent of the mortgagor's monthly gross income.

(b) *Past credit performance.* The mortgagor must have made at least six full payments on the existing senior mortgage being refinanced under the H4H program.

(c) The H4H program mortgage shall have a maturity of not less than 30 years and not more than 40 years from the date of origination.

(d) *Nonoccupant co-borrowers.* A mortgage loan may be insured by the FHA under the H4H program, even if one of the mortgagors on the loan (*i.e.*, a co-signer) does not reside at the residence securing the loan, provided that the nonresident mortgagor relinquishes all interests in the property that is to be security for the mortgage before an application is submitted for FHA insurance under the H4H program.

(e) *Limit on origination fees.* Mortgagees may charge and collect from mortgagors allowable closing costs.

§ 257.112 Mortgagee verifications.

(a) *Income verification.* The mortgagee shall use FHA's procedures to verify the mortgagor's income.

(b) *Mortgage fraud verification.* The mortgagor shall provide a certification to the mortgagee that the mortgagor has not been convicted under federal or state law for fraud during the 10-year period ending upon the insurance of the H4H program mortgage. This certification may be combined with the certification to FHA required under § 257.116(b)(1)(ii). The mortgagee shall take such action as HUD may specify

in administrative guidance to ensure that the mortgagor is in compliance with the certification.

§ 257.114 Appraisal.

(a) The property shall be appraised by an appraiser on the FHA Appraiser Roster.

(b) An appraisal of a property to be security for an H4H program mortgage shall be conducted in accordance with Uniform Standards of Professional Appraisal Practice (USPAP), and dated no more than 180 days from the date on which the mortgage transaction is closed, except as otherwise provided by HUD.

(c) The mortgagee must inform the appraiser that copies of the appraisal may be shared with holders and servicers of existing subordinate mortgages.

§ 257.116 Representations and prohibitions.

(a) *Underwriting and appraisal standards.* In order for the H4H program mortgage to be eligible for insurance under the H4H program, the underwriter and the mortgagee must provide certifications, in a format approved by FHA, that the mortgage is in compliance with the underwriting and the appraisal standards set forth in this part, and that it meets all requirements applicable to the H4H program. FHA may require additional certifications by the mortgagee to ensure compliance with such additional standards as FHA deems necessary, given the specific mortgage transaction presented.

(b) *Mortgagor's liability for repayment.*

(1) The mortgagor shall provide a certification to FHA that the mortgagor has not:

(i) Intentionally defaulted on the mortgagor's existing mortgage(s), or any other substantial debt during the 5-year period ending upon insurance of the H4H program mortgage; or

(ii) Knowingly or willfully and with actual knowledge furnished material information known to be false for the purpose of obtaining the H4H program mortgage; and

(iii) Been convicted under federal or state law for fraud during the 10-year period ending upon the insurance of the H4H program mortgage. This certifi-

cation may be combined with the certification to the mortgagee required under § 257.112(b).

(2) The mortgagor shall provide any other certifications that FHA may otherwise require.

(3) A mortgagor obligated under an H4H program mortgage shall agree in writing, on a form prescribed by HUD, to be liable to pay to HUD any Direct Financial Benefit achieved from the reduction of indebtedness on the existing senior and subordinate mortgages that are being refinanced under the H4H program if he or she makes a false statement or other misrepresentation in the certifications and documentation required for H4H program eligibility, including but not limited to the certifications required under paragraphs (b)(1) and (b)(2) of this section.

(c) *Mortgagee in violation of program requirements.* (1) If the mortgagee holds an H4H program mortgage that it originated and/or underwrote, and FHA finds that the mortgagee violated the representations and warranties required under paragraph (a) of this section, FHA is prohibited from paying FHA insurance benefits to that mortgagee.

(2) If the mortgagee no longer holds the H4H program mortgage that it originated and/or underwrote, FHA will pay an insurance claim to the mortgagee presently holding the H4H program mortgage (if all other requirements of the contract for mortgage insurance are met and the present holder did not participate in the violation of H4H program requirements) and shall seek indemnification from the mortgagee that originated the H4H program mortgage.

(d) *FHA insurance.* A mortgage is eligible for insurance if the mortgagee submits a complete case binder within such time period as HUD prescribes. The binder shall include evidence acceptable to HUD that the mortgage is current.

(e) *Mortgagor failure to make first mortgage payment.* FHA shall not pay a mortgage insurance claim to any mortgagee if the first total monthly mortgage payment is not made within 120 days from the date of closing of the mortgage. The mortgagee shall not, directly or indirectly, make all or a part